

## REMUNERATION TRIBUNAL

### REPORT RELATING TO DETERMINATION NO. 6 OF 2010

#### 1. INTRODUCTION

- 1.1 In accordance with the provisions of the *Remuneration Act 1990* ('Remuneration Act'), the *Local Government Act 1999* ('Local Government Act') and the *City of Adelaide Act 1998* ('City of Adelaide Act') the Remuneration Tribunal ('the Tribunal') is required to determine the allowances payable to council members of local government councils. The Local Government Act and the City of Adelaide Act require that the Tribunal determine such allowances on a four-yearly basis. The Determinations must be made at least fourteen days before the day on which nominations close for the coincidental elections for local government members, held under the *Local Government (Elections) Act 1999*.
- 1.2 The sixty-seven councils listed in Appendix 1 are covered by this Determination.
- 1.3 The Tribunal placed the following notice in *The Saturday Advertiser* on 24 April 2010:

#### DETERMINATION OF ALLOWANCES FOR MEMBERS OF COUNCILS

Section 76 of the *Local Government Act 1999* (SA) and section 24 of the *City of Adelaide Act 1998* (SA) requires the Tribunal to determine, on a four yearly basis, allowances for members of local government councils.

The Tribunal, in making its determination, must have regard to:

- ~ the role of members of council as members of the council's governing body and as representatives of the council's area;
- ~ the size, population and revenue of the council, and any relevant economic, social, demographic and regional factors in the council area;
- ~ such an allowance is not intended to amount to a salary for a member;
- ~ such an allowance should reflect the nature of a member's office; and
- ~ the Act's provisions to provide for reimbursement of member's expenses.

Individual members of Councils, Councils, and interested Associations are invited to make concise written submissions to the Tribunal outlining views they consider should be taken into account in the determination of the above allowances.

Persons who are entitled to be enrolled on the voters roll for a council area are also invited to make submissions, orally or in writing to the Tribunal, regarding allowances relating to members of the council for that area.

Opportunities for oral submissions will be determined based on need. Please contact the Secretary to register your interest in making an oral submission.

Submissions must be received by **5pm Friday, 4 June 2010** and can be forwarded to:

**The Secretary**  
**Remuneration Tribunal**  
GPO Box 2343  
ADELAIDE SA 5001

Telephone: (08) 8226 2700  
Facsimile: (08) 8226 2730

A pro forma for submissions is available from the Secretary or at the Tribunal's website: [www.remtribunal.sa.gov.au](http://www.remtribunal.sa.gov.au).

The *Local Government Act 1999* (SA) and the *City of Adelaide Act 1998* (SA) are available at: [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)

- 1.4 The same notice was placed in country and suburban newspapers, as detailed in Appendix 2.
- 1.5 By letters dated 27 April 2010, the Tribunal invited the Local Government Association ('LGA') and the Minister for State/Local Government Relations to make submissions in relation to allowances for council members of local government. The Tribunal also invited the Premier, as Minister responsible for the Remuneration Act, to make submissions in the public interest.
- 1.6 Tribunal President, Mr Hedley Bachmann, provided information regarding the role of the Tribunal and the approach it would take in determining the allowances at the following LGA functions:
  - 1.6.1 Breakfast Session, LGA's Annual General Meeting on 23 April 2010; and
  - 1.6.2 Governance Seminar – "Council Member Allowances" on 28 May 2010.

## **2. SUBMISSIONS**

- 2.1 The Tribunal received sixty-five written submissions, including twenty-five from councils. Written submissions were also received from the LGA, current and past local government council members, and members of the public.
- 2.2 The Tribunal received three requests to make oral submissions, which it heard on 23 June, 20 July and 5 August 2010.
- 2.3 To assist in its deliberations, the Tribunal, in accordance with section 10 of the Remuneration Act, independently sought information from the following bodies:
  - 2.3.1 Local Government Association of South Australia;
  - 2.3.2 Office of State/Local Government Relations, Department of Planning and Local Government;
  - 2.3.3 South Australian Local Government Grants Commission;
  - 2.3.4 Boards and Committees Unit, Department of the Premier and Cabinet; and
  - 2.3.5 Australian Institute of Company Directors.
- 2.4 Submissions received by the Tribunal included comment on the following matters:
  - 2.4.1 the voluntary nature of work undertaken by council members;
  - 2.4.2 recruitment and diversity;
  - 2.4.3 grouping of councils;
  - 2.4.4 the allowance payable and workload;
  - 2.4.5 the additional responsibilities of a principal member;
  - 2.4.6 reimbursements;
  - 2.4.7 standing committees;
  - 2.4.8 amalgamations;
  - 2.4.9 travelling time required of non-metropolitan council members; and
  - 2.4.10 the complexity of council work.

**2.5 Voluntary nature of work undertaken by council members**

2.5.1 A number of individual submissions recognised that the role of council members is voluntary. Some submitted that it was only appropriate to pay small allowances; others submitted that no allowance should be paid.

2.5.2 Some submissions drew comparisons between councils and not for profit or community organisations, noting that the latter do not provide payment.

**2.6 Recruitment and Diversity**

2.6.1 The issue of attraction and retention of quality candidates to councillor roles was raised in a few submissions. Some submitted that a higher allowance should be available in order to attract a wider range of individuals to the role.

2.6.2 Conversely, some submissions proposed that the existing allowances payable to council members are sufficient, and that there are no attraction and retention issues.

**2.7 Grouping of Councils**

2.7.1 Many submissions commented on the notion of grouping councils.

2.7.2 While some submitted that each council is unique, submissions received were generally supportive of dividing councils into groups.

2.7.3 The Tribunal was urged to consider the differing requirements of various council populations including services to be provided and maintained by the council; the demographics of councils; the transient or temporary population versus permanent population; councils experiencing accelerated growth; and the different geographical coverage of council areas.

**2.8 Allowance**

2.8.1 It was submitted that the same allowance should be payable to all council members as the duties and responsibilities of all council members are the same.

2.8.2 Some submissions proposed that the allowance determined should be based on the number of meetings attended or the amount of work actually undertaken by each member.

2.8.3 A number of submissions referred to a disparity in the amount of work undertaken by different council members on council business.

2.8.4 It was also submitted that there should be no reduction in the current allowances payable to council members.

**2.9 Additional responsibilities of a principal member**

2.9.1 The additional duties and responsibilities of a principal member were acknowledged in a number of submissions.

2.9.2 Submissions received by the Tribunal suggested that the additional duties and responsibilities of the principal member are significant, and that the current provision for principal members to be paid an allowance up to four times the base amount for councillors is appropriate and should remain.

2.9.3 Currently, principal members under the Local Government Act can receive up to four times the maximum base amount set for council members, and deputies and presiding members can receive up to one and a quarter times the maximum base amount set for council members.

2.9.4 The Lord Mayor and Deputy Lord Mayor of the Adelaide City Council can receive allowances of up to seven times and one and a half times, respectively, the base amount set for members of the Adelaide City Council.

2.9.5 The Tribunal received a few submissions seeking to vary the existing arrangements.

## **2.10 Reimbursements**

2.10.1 A number of submissions asked the Tribunal to consider the reimbursements available to council members when determining the allowances payable, as council members can seek reimbursement from their council for a range of expenses incurred.

2.10.2 Other submissions suggested that the Tribunal's allowance should be inclusive of all expenses incurred while undertaking the role, and council members should not be able to seek additional reimbursements.

2.10.3 It was also submitted that the Tribunal should determine the reimbursements available to council members.

## **2.11 Standing committees**

2.11.1 A number of submissions criticised the current arrangement whereby external members of standing committees, such as the Development Assessment Panels, are paid for their involvement, while council members are not, and this should be recognised in the allowance payable.

## **2.12 Amalgamations**

2.12.1 One submission received by the Tribunal asked the Tribunal to consider deferring the determination of allowances for council members of councils identified in the 2005 Cossey/Jackson Report as being not economically viable. It was submitted that such a determination should be deferred pending assessment of amalgamation of such councils and their future economic viability.

## **2.13 Travelling time required of non-metropolitan council members**

2.13.1 A number of submissions referred to the excessive travelling time requirements of some rural council members.

2.13.2 It was further submitted that while reimbursements are available for travel costs incurred, reimbursement is not available for the extra time spent by non-metropolitan council members in travelling to and from council meetings and carrying out other council functions.

2.13.3 It was submitted the extra time commitment required of non-metropolitan councillors be recognised and reflected in the allowance determined by the Tribunal.

## **2.14 Complexity of council work**

2.14.1 A few submissions received suggested an increased complexity in the work undertaken by councils, such as an increasing complexity with regards to governance requirements, strategic planning and financial management of councils.

## **3. INTERSTATE LOCAL GOVERNMENT COUNCIL MEMBER REMUNERATION**

3.1 As in other reviews, the Tribunal considered the remuneration of interstate local government members but they were of limited use due to the differences in legislation, duties and roles of council members and the different rationale for remuneration interstate.

- 3.2 Interstate comparisons demonstrate that other states provide different remuneration levels for council members, rather than a single set figure for all council members. Queensland, New South Wales and Victoria use groupings or categories to establish various remuneration levels. Tasmania lists all local government councils and provides different remuneration levels. Western Australian legislation provides a remuneration range with an upper and lower limit for council members. Members can either be paid per council meeting attended, or can be paid an annual fee.
- 3.3 An assessment of remuneration available to local government council members interstate demonstrates that the allowances determined by the Tribunal are generally not inconsistent with those rates, in particular with remuneration levels in jurisdictions that have similar legislative frameworks.

#### **4. LEGISLATIVE REQUIREMENTS**

##### **4.1 Principal members**

4.1.1 Section 58(1) of the Local Government Act sets out the following specific roles for principal members:

- “(a) to preside at meetings of the council;*
- (b) if requested, to provide advice to the chief executive officer between council meetings on the implementation of a decision of the council;*
- (c) to act as the principal spokesperson of the council;*
- (d) to exercise other functions of the council as the council determines;*
- (e) to carry out the civic and ceremonial duties of the office of principal member.”*

##### **4.2 Members of Local Government Councils**

4.2.1 Section 59(1) of the Local Government Act sets out the roles of council members:

- “(a) as a member of the governing body of the council— (i) to participate in the deliberations and civic activities of the council; (ii) to keep the council's objectives and policies under review to ensure that they are appropriate and effective; (iii) to keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review;*
- (b) as a person elected to the council—to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the council.”*

4.2.2 In addition, section 62 of the Local Government Act states that a council member has a range of legal responsibilities, including:

- “(1) A member of a council must at all times act honestly in the performance and discharge of official functions and duties.*
- (2) A member of a council must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties.*
- (3) A member or former member of a council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.*
- (4) A member of a council must not, whether within or outside the State, make improper use of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.”*

##### **4.3 Remuneration Tribunal**

4.3.1 Section 76(3) of the Local Government Act and section 24(3) of the City of Adelaide Act require the Tribunal, when determining allowances for council members, to have regard to the following:

- a) *the role of members of council as members of the council's governing body and as representatives of their area;*
- b) *the size, population and revenue of the council, and any relevant economic, social, demographic and regional factors in the council area;*
- c) *the fact that an allowance under this section is not intended to amount to a salary for a member;*
- d) *the fact that an allowance under this section should reflect the nature of a member's office;*
- e) *the provisions of this Act providing for the reimbursement of expenses of members."*

4.3.2 The allowances set out in Determination 6 of 2010 are in the nature of fees, and are not to be taken as salary.

## **6. CONCLUSIONS OF THE TRIBUNAL**

6.1 The Tribunal has taken into account all the submissions received, the legal responsibilities, roles and duties of all council members, and the additional information requested in its determination of appropriate allowances for council members.

6.2 It has also had regard to the statutory requirements under the various Acts and the diversity of councils, which extends beyond the rural and metropolitan differences, and encompasses physical, demographic, economic, social, fiscal, cultural and resource factors.

### **6.3 Voluntary nature of work undertaken by council members**

6.3.1 The Tribunal understands that the relevant local government legislation reinforces the notion that a council member is a voluntary role and is not paid employment. In addition, the allowances determined are not intended to amount to salary and qualifications are not required to undertake the role of a council member.

### **6.4 Recruitment and diversity**

6.4.1 The Tribunal believes that the allowances determined are sufficient to attract and retain suitable council members.

### **6.5 Grouping of councils**

6.5.1 The Tribunal determined that grouping councils is appropriate. The five and grouped the councils into five groups, set out in Appendix 1.

6.5.2 The Tribunal had regard to and weighted the matters listed in section 76(3) of the Local Government Act and section 24(3) of the City of Adelaide Act in determining the groups. Particular emphasis was placed upon the population, total operating revenue, and the number of electors per council member in each council. In addition, the Tribunal had regard to the matters raised in submissions regarding the grouping of councils.

### **6.6 Allowance payable and workload**

- 6.6.1 The Tribunal determined a per annum rate for all council members. If the Tribunal set a range of rates as some submissions suggest, councils would effectively be required to again determine the allowances payable to its members.
- 6.6.2 The Tribunal is not providing an allowance based on meetings attended or workload undertaken.
- 6.6.3 The Tribunal considers that the current maximum rate for allowances needs to be increased. The maximum allowance determined is \$16,800 per annum for Group One councils.
- 6.6.4 The Tribunal acknowledges that a number of submissions asked for no reduction in the current allowance. The allowance determined by the Tribunal does not take effect until after the 2010 local government elections. Accordingly no reduction in present allowances will occur as such. All candidates in the local government elections to which the Tribunal's determination will apply will be aware of the allowances payable prior to nominating for election to a position.

#### **6.7 Additional responsibilities of a principal member**

- 6.7.1 In recognition of the additional duties and responsibilities of principal, deputy and presiding members of a council, the Tribunal has determined greater allowances for such members. The Tribunal has determined that the current ratios of rates applicable to these roles are reasonable and therefore has determined that similar arrangements will apply.

#### **6.8 Reimbursements**

- 6.8.1 As the reimbursement of expenses is not within the Tribunal's jurisdiction, no determination is made in this regard. Each individual council is best placed to apply the principles of reimbursement for its individual council members, and the current arrangements pertaining to reimbursements will continue.

#### **6.9 Standing committees**

- 6.9.1 Council members who are members of council standing committees may participate in committees that provide remuneration to non-council members, such as professional representatives. The Tribunal recognises that the membership of these committees is predicated upon the council member's status as a councillor, which is voluntary role. Accordingly, it makes no determination on this matter.

#### **6.10 Amalgamations**

- 6.10.1 The Tribunal considers that the amalgamation of councils and their financial viability is not within its jurisdiction, and as such similarly makes no determination regarding these issues.

#### **6.11 Travelling time required of non-metropolitan council members**

- 6.11.1 A travel time payment has been determined for non-metropolitan council members. The payment recognises the extra travelling time required of some non-metropolitan council members to attend council meetings and/or carry out council duties. Principal members are excluded from receipt of the payment in the context of other recognition given these members.
- 6.11.2 The payment, where applicable, is provided in addition to any reimbursements provided by the council.

**6.12 Complexity of council work**

6.12.1 The Tribunal has determined that a maximum allowance of \$5000 per annum is appropriate in recognition of council members legislative duties.

6.12.2 The Tribunal then, having regard to the complexities of different councils and the different levels of responsibility and accountability required of the council members to greater numbers of electors, has determined an additional four levels of allowance, set out in Appendix 1.

6.13 Having regard to all the submissions and material put to it, including those concerning interstate comparisons, the role of councils and council members, size, population and revenue of the council, relevant economic, social, demographic and regional factors specific to different council areas, the nature of the remuneration as a fee not salary, and the need for the allowance to reflect the nature of the members' offices, the Tribunal has determined that the allowances payable to council members of local government councils are those set out in Determination 6 of 2010.

**9. DETERMINATION AND OPERATIVE DATE**

9.1 In accordance with section 76 of the Local Government Act and section 24 the City of Adelaide Act, the allowances determined by the Tribunal are set out in Determination 6 of 2010, and will operate for all council members from the first ordinary meeting of the council held after the conclusion of the 2010 local government elections.

*Original signed by Hedley R. Bachmann AM 23 August 2010*

Hedley R. Bachmann AM  
**PRESIDENT**

23 August 2010



**Appendix 1 – Council Groups**

**GROUP ONE**

Adelaide City Council  
City of Charles Sturt  
City of Marion  
City of Mitcham  
City of Onkaparinga  
City of Playford  
City of Port Adelaide Enfield  
City of Salisbury  
City of Tea Tree Gully  
City of West Torrens

**GROUP TWO**

Adelaide Hills Council  
Alexandrina Council  
Campbelltown City Council  
City of Holdfast Bay  
City of Mount Gambier  
City of Prospect  
City of Unley  
District Council of Mount Barker  
The Barossa Council  
The City of Burnside  
The City of Norwood, Payneham and St Peters  
The City of Whyalla  
The Rural City of Murray Bridge  
Town of Gawler

**GROUP THREE**

Berri Barmera Council  
City of Port Lincoln  
City of Victor Harbor  
District Council of Loxton Waikerie  
District Council of the Copper Coast  
District Council of Yorke Peninsula  
Light Regional Council  
Port Augusta City Council  
Port Pirie Regional Council  
Wattle Range Council

**GROUP FOUR**

Clare and Gilbert Valleys Council  
Corporation of the Town of Walkerville  
District Council of Grant  
District Council of Lower Eyre Peninsula  
District Council of Mallala  
District Council of Yankalilla  
District Council Renmark Paringa  
Kangaroo Island Council  
Mid Murray Council  
Naracoorte Lucindale Council  
Northern Areas Council  
Regional Council of Goyder  
Tatiara District Council  
The District Council Coorong  
Wakefield Regional Council

**GROUP FIVE**

District Council of Barunga West  
District Council of Ceduna  
District Council of Cleve  
District Council of Coober Pedy  
District Council of Elliston  
District Council of Franklin Harbour  
District Council of Karoonda East Murray  
District Council of Kimba  
District Council of Mount Remarkable  
District Council of Orroroo Carrieton  
District Council of Peterborough  
District Council of Robe  
District Council of Streaky Bay  
District Council of Tumby Bay  
Kingston District Council  
Southern Mallee District Council  
The Flinders Ranges Council  
Wudinna District Council

**Appendix 2 – Publication of Notice seeking submissions**

Barossa and Light Herald	Wednesday	28 April 10
Border Chronicle	Thursday	29 April 10
Border Times	Wednesday	28 April 10
Border Watch, The	Tuesday	27 April 10
Bunyip, The	Wednesday	28 April 10
Coastal Leader	Wednesday	28 April 10
Coober Pedy Regional Times	Thursday	29 April 10
Eyre Peninsular Tribune	Thursday	29 April 10
Flinders News, The	Wednesday	28 April 10
Islander, The	Thursday	29 April 10
Loxton News, The	Wednesday	28 April 10
Messenger Newspapers (All)	Wednesday	28 April 10
Mid North Coast Broadcaster	Wednesday	28 April 10
Courier, The	Wednesday	28 April 10
Murray Pioneer	Tuesday	27 April 10
Murray Valley Standard, The	Tuesday	27 April 10
Naracoorte Herald	Thursday	29 April 10
Northern Argus	Wednesday	28 April 10
Plains Producer	Wednesday	28 April 10
Port Lincoln Times	Tuesday	27 April 10
Recorder, The	Tuesday	27 April 10
River News, The	Wednesday	28 April 10
Roxby Downs Sun	Friday	30 April 10
Saturday Advertiser, The	Saturday	24 April 10
Stock Journal – South Australia	Saturday	24 April 10
South Eastern Times	Monday	26 April 10
Times, The	Thursday	29 April 10
Transcontinental, The	Wednesday	28 April 10
West Coast Sentinel	Thursday	29 April 10
Whyalla News	Monday	26 April 10
Yorke Peninsula Country Times	Tuesday	27 April 10

*Note: Publications are listed alphabetically*